

FILED

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

2016 NOV -7 PM 2:06  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
YOUNGSTOWN

UNITED STATES OF AMERICA  
Plaintiff,  
  
VS.

RYAN D. MALONE  
Defendant.

Case No. 1:14-cr-00438

The Honorable Benita Y. Pearson  
U.S. District Court Judge

PRO SE

**ADDENDUM TO DEFENDANT'S SENTENCING MEMORANDUM,  
DOWNWARD DEPARTURE REQUEST AND RDAP REQUEST**

Now comes Defendant, RYAN D. MALONE, Pro Se, and respectfully amends the sentencing memorandum and requests for a downward departure and RDAP recommendation from this Honorable Court.

MEMORANDUM IN SUPPORT

Defendant's attorney filed a Sentencing Memorandum in the above captioned case. However, Defendant was not given the chance to review it prior to filing, even though that was Defendant's request. After the Memorandum was filed Defendant finally got to see it and immediately saw that there were arguments omitted that Defendant felt should be included and one issue that was argued wrong altogether.

Due to Defendant's intensive drug use throughout his childhood and adulthood, and specifically, his daily use of drugs leading up to the instant offense and conviction, Defendant humbly requests that this Honorable Court recommend treatment in the RDAP program.

Defendant also humbly requests a one (1) point downward departure for his Post Rehabilitation Conduct. In addition to the programs listed in the original Sentencing Memorandum, Defendant is also enrolled in Personal Success and Parenting, Phase II. Furthermore, Defendant would like this Court to acknowledge that Defendant has received zero incident reports during his incarceration.

Finally, Defendant disagrees with the argument counsel made in the original Sentencing Memorandum; Page 6 #3, Downward Departure – Overrepresentation of Criminal History. While Defendant agrees that his criminal history over represents his past conduct, Defendant does not agree that it is properly argued pursuant to U.S.S.G. § 4A1.3(b). Counsel, in footnote<sup>1</sup>, mentions that the two convictions in question stem from the same incident. Therefore, the correct argument for this issue would be made pursuant to U.S.S.G. § 4A1.2, application n. 3 (A) and (C). Defendant was found in possession of two (2) firearms on two (2) separate occasions. The charges for the firearms were put on the same indictment, under the same case number, and Defendant was sentenced for them on the same day; U.S.S.G. § 4A1.2, application n. 3 (C) would apply because of this. Moreover, the firearm possession from May 23, 2006 and Trafficking Offense occurred at the same time with only one arrest for both charges; U.S.S.G. § 4A1.2, application n. 3 (A) would apply because of this. U.S.S.G. § 4A1.2(a)(2) states that prior sentences imposed in *unrelated* cases are to be counted separately. Prior sentences imposed in

related cases are to be treated as one sentence for purposes of addition of criminal history points. (emphasis mine). For that reason, Defendant should only receive three (3) criminal history points, total, for both convictions, instead of the six (6) points indicated in the Pre Sentence Report.

For the foregoing reasons, Defendant prays for this Honorable Court to add these considerations to the original Sentencing Memorandum filed by counsel.

Respectfully Submitted,

*Ryan D. Malone*

Ryan D. Malone  
Reg No. 30802-160  
N.E.O.C.C  
2240 Hubbard Rd.  
Youngstown, Ohio 44505

This 2<sup>nd</sup> day of November, 2016

CERTIFICATE OF SERVICE

I certify that I have placed this 'Addendum to Defendant's Sentencing Memorandum, Request for Downward Departure and RDAP Request' in the legal mail here at North East Ohio Correctional Center for delivery to the Office of The Clerk, Thomas D. Lambros Federal Building and United States Courthouse, For the Northern District Of Ohio, Eastern Division, in a sealed envelope, with postage pre-paid, on this 2<sup>nd</sup> day of November, 2016.

Ryan D. Malone  
Ryan D. Malone